

ENTERED

August 09, 2024

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SAEED ROHIFARD,

Plaintiff,

VS.

BREWER & PRICHARD, P.C.,

Defendant.

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CIVIL ACTION NO. 4:23-CV-01138

ORDER

Before the Court is United States Bankruptcy Judge Marvin Isgur's Report and Recommendation (Doc. #1). Judge Isgur has resolved all pre-trial matters in this case, including dispositive motions. *Id.* at 1–2. Moreover, all parties have consented to a trial by jury. *Id.*; *see also* Doc. #224 (Defendants' Notice of Consent to Jury Trial and Withdrawal of the Reference). However, the parties have not all consented to a trial before the Bankruptcy Court. Doc. #1 at 3–4. Thus, Judge Isgur issued the Report and Recommendation, recommending that this Court withdraw the reference to the Bankruptcy Court for trial only. *Id.* at 1.

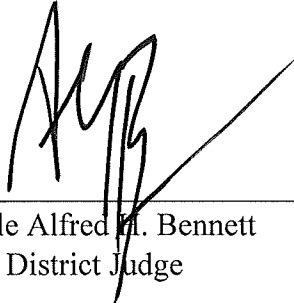
Under 28 U.S.C. § 157 ("Section 157"), "[t]he district court may withdraw, in whole or in part, any case or proceeding referred under this section, on its own motion or on timely motion of any party, for cause shown." 28 U.S.C. § 157(d). Where a jury demand is properly made and the parties do not consent to trial before the Bankruptcy Court, sufficient cause to withdraw the reference under Section 157 is established. *See In Re KP Eng'g, LP*, No. 19-34698, 2020 WL 5947611, at *1 (S.D. Tex. Oct. 7, 2020) (adopting the bankruptcy court's recommendation that the district court withdraw the reference for trial only). Here, the parties agree that Plaintiff timely

made a jury demand, and Defendants have consented to a jury trial. *See* Doc. #1 at 2; Doc. #3. Plaintiff's claims against Defendants are predominantly legal, and the remedies sought are legal in nature. Thus, because the parties do not consent to a jury trial before the Bankruptcy Court, withdrawal of reference pursuant to Section 157(d) is appropriate. *See In Re KP Eng'g, LP*, 2020 WL 5947611, at *1.

For the foregoing reasons, the Court adopts Judge Isgur's Report and Recommendation (Doc. #1). As such, the Court hereby WITHDRAWS the reference for trial only.

It is so ORDERED.

8/9/24
Date


The Honorable Alfred M. Bennett
United States District Judge